

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

FILED

DEC 03 2015

Clerk, U.S. District Court
District Of Montana
Missoula

JOSEPH E. LAWRENCE,

Plaintiff,

vs.

STATE OF MONTANA, et al.,

Defendants.

CV 15-00085-M-DLC-JCL

FINDINGS AND RECOMMENDATIONS OF
UNITED STATES MAGISTRATE JUDGE

Plaintiff Joseph Lawrence filed a document entitled, "Criminal Complaint for Wrongful Death and 42 U.S.C. § 1983 Civil Action." (Civil Action 15-CV-85-M-DLC-JCL, Complaint, Doc. 2.) Lawrence alleges Defendants are responsible for the death of his mother because they allegedly seized his mother's property illegally and refused to return it thus leading to her death. (Doc. 2.) On October 29, 2015, this Court issued an Order finding that as a pro se litigant, Lawrence was not entitled to represent the interests of anyone other than himself in federal court. Since he was seeking to represent the interests of his mother's estate for which there is another beneficiary, the Court found that this matter was subject to dismissal. (Doc. 14.) Lawrence was given until November 30, 2015 to obtain counsel. He did not do so.

Accordingly, the Court issues the following:

RECOMMENDATIONS

1. Lawrence's Complaint (Doc. 2) should be dismissed without prejudice.

The Clerk of Court should be directed to close this matter and enter judgment pursuant to Rule 58 of the Federal Rules of Civil Procedure.

2. The Clerk of Court should be directed to have the docket reflect that the Court certifies pursuant to Rule 24(a)(3)(A) of the Federal Rules of Appellate Procedure that any appeal of this decision would not be taken in good faith. The record makes plain the instant Complaint is frivolous as it lacks arguable substance in law or fact.

NOTICE OF RIGHT TO OBJECT TO FINDINGS & RECOMMENDATIONS AND CONSEQUENCES OF FAILURE TO OBJECT

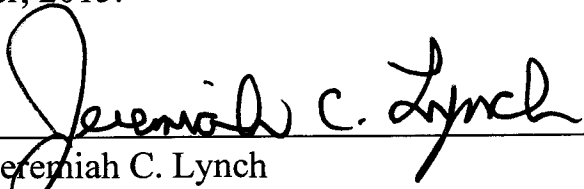
Lawrence may file objections to these Findings and Recommendations within fourteen (14) days after service (mailing) hereof.¹ 28 U.S.C. § 636. Failure to timely file written objections may bar a de novo determination by the district judge and/or waive the right to appeal.

This order is not immediately appealable to the Ninth Circuit Court of

¹As this deadline allows a party to act after the Findings and Recommendations is "served," it falls under Fed.R.Civ.P. 6(d). Therefore, three (3) days are added after the period would otherwise expire.

Appeals. Any notice of appeal pursuant to Fed.R.App.P. 4(a), should not be filed until entry of the District Court's final judgment.

DATED this 3rd day of December, 2015.


Jeremiah C. Lynch
United States Magistrate Judge